



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2026

CORAM

THE HONOURABLE MR JUSTICE S. SOUNTHAR

**C.R.P(MD).No.1698 of 2026
and C.M.P(MD).No.8199 of 2026**

Devaraj (died)

1.D.Jeyarani

2.D.Anitha

3.D.Rajmohan

4.D.Devanandh

... Petitioners

Vs

Bose @ Periyabose

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the return/ docket order dated 18.06.2026 made in unnumbered E.A in E.P.No.6 of 2020 on the file of the Subordinate Court, Usilampatti, in O.S.No.659 of 2008 and consequently direct the learned Subordinate Judge, Usilampatti, to number the petition filed under Order XXI Rule 26 r/w Section 151 CPC and dispose of the same on merits within a time frame fixed by this Court.

For Petitioners : Mr.S.RamsundarvijayRaj
M/s.Veera Associates

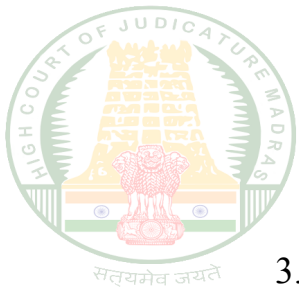
ORDER

This civil revision petition is filed challenging the order passed by the Executing Court returning the application filed by the petitioners under Order 21 Rule 26 of the Code Civil Procedure seeking stay of execution proceedings.



WEB COPY

2.It is seen from the typed set of papers that the respondent/decreed-holder obtained decree in his favour in O.S.No.659 of 2008 filed by him seeking for declaration of title, permanent injunction and mandatory injunction. The said decree is put into execution in E.P.No.6 of 2020. It is further seen from the typed set of papers that the petitioners have already challenged the said decree by filing an appeal in A.S.No.24 of 2021 and the same is pending on the file of the IV Additional District Court, Madurai. Now, the petitioners filed instant application before the Executing Court by invoking Order 21 Rule 26 of Code of Civil Procedure seeking stay of further proceedings of execution petition on the ground that an appeal is pending. When the appeal filed by the petitioners challenging the decree passed by the Trial Court is pending, the petitioners have got the remedy of moving the Appellate Court seeking stay. Though the petitioners filed an appeal in the year 2021, till date the petitioners have not moved the Appellate Court seeking stay of execution. In such circumstances, the petitioners are not entitled to invoke under Order 21 Rule 26 of the Code of Civil Procedure, seeking stay of execution.



WEB COPY

3.The said provision only to empower the Executing Court to grant temporary interim relief to facilitate the party in approaching the First Appellate Court and obtaining an order of stay of execution. In the case on hand, the petitioners had ample opportunity over a period of six years to approach the First Appellate Court and obtain an order of stay. However, they failed to avail themselves of the said remedy within the said period. The Executing Court rightly appreciated the factual position and returned the application filed by the petitioners on the ground that the remedy of the petitioners lies before the First Appellate Court. I do not find any error in the order passed by the Executing Court in returning the application. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

01.07.2026

NCC : Yes/No
Index : Yes/No
Rmk

To

- 1.The Subordinate Judge, Usilampatti.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



S. SOUNTHAR.J.

Rmk

C.R.P(MD).No.1698 of 2026

01.07.2026